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OFFICE OF PETITIONS

In re Application of :
Alveby et al. :
Application No. 10/800,968 : DECISION ON PETITION
Filed: 15 March, 2004 :
Attorney Docket No. 32224-CIP1 :

This is a decision on the petition filed on 9 July, 2004, styled under 37 CFR 1.181, which is treated as a petition under 37 CFR 1.53 requesting that the above-identified application, including three (3) sheets of drawings, be accorded a filing date of 15 March, 2004.

The petition is granted.

On 15 March, 2004, the application was filed.

On 1 June, 2004, Initial Patent Examination Division mailed a Notice of Incomplete Nonprovisional Application, stating that the application had been deposited without drawings, and that application should reconsider whether drawings were necessary under 35 U.S.C. § 113 (first sentence). The Notice stated that the filing date would be the date of receipt of the missing drawings. The Notice also stated that the oath or declaration was unsigned.

In response, on 9 July, 2004, the present petition and a copy of three (3) sheet of drawings, was filed. Petitioners argue that three (3) drawing sheets was filed with the other application papers on 15 March, 2004, but were subsequently misplaced in the U.S. Patent and Trademark Office (Office). In support, a copy of petitioners' postcard receipt was supplied with the present petition. The postcard receipt shows an Office date stamp of 15 March, 2004, with the above-identified application number, and identifies the application by the first named inventor's name, invention title, and attorney docket number, and acknowledges

receipt of, *inter alia*, three (3) drawing sheets. Petitioners request that the application, including the three (3) sheets of drawings, be accorded a filing date of 15 March, 2004.

A review of the record reveals that no sheets of drawings received on 15 March, 2004, are located among the application papers received on that date. However, the evidence is convincing that the application papers deposited on 15 March, 2004, included three (3) sheets of drawings, which were subsequently misplaced in the Office. Therefore, the application, including three (3) sheets of drawings, is entitled to a filing date of 15 March, 2004.

In view of the above, the petition is granted. As the present petition was necessitated by Office error, the petition fee will be credited to counsel's deposit account, No. 19-0522.

Receipt is also acknowledged of the signed declaration filed on 9 July, 2004, with the present petition.

The application will be processed with the copy of the three (3) sheets of drawings supplied on 9 July, 2004, as a part of the original disclosure.

The application is being returned to Initial Patent Examination Division for further processing with a filing date of 15 March, 2004, using the application papers filed on that date, and the copy of three (3) sheets of drawings supplied with the present petition, and for an indication in Office records that three (3) sheets of drawings were present on filing.

Telephone inquiries should be directed to the undersigned at 571-272-3231.



Douglas I. Wood
Senior Petitions Attorney
Office of Petitions